	Case 2:13-cv-00265-GMN-NJK Document	1 Filed 02/19/13 Page 1 of 5	
1	Jonathan W. Fountain		
2	Nevada Bar No. 10351 JFountain@LRLaw.com		
3	LEWIS AND ROCA LLP 3993 Howard Hughes Parkway		
4	Suite 600 Las Vegas, NV 89169		
5	Phone: (702) 949-8340 Fax: (702) 949-8374		
6	Of counsel:		
7	Adam K. Mortara		
8	(Will comply with LR IA 10-2 within 45 days) adam.mortara@bartlit-beck.com Matthew R. Ford (Will comply with LR IA 10-2 within 45 days) matthew.ford@bartlit-beck.com BARTLIT BECK HERMAN PALENCHAR & SCOTT LLP 54 W. Hubbard Street, Suite 300 Chicago, IL 60654 Phone: (312) 494-4400		
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12	Fax: (312) 494-4440		
13	Attorneys for Plaintiff BAYER PHARMA AG		
14			
15	UNITED STATES DISTRICT COURT		
16	DISTRICT OF NEVADA		
17	BAYER PHARMA AG	COMPLAINT	
18	Plaintiff,	(JURY DEMAND)	
19	VS.	,	
20	WARNER CHILCOTT COMPANY, LLC and WARNER CHILCOTT (US), LLC		
21	Defendants.		
22	DI: (*CCD DI AC (*D 2)) 1		
23	Plaintiff Bayer Pharma AG ("Bayer") brings this Complaint for patent infringement		
24	against Defendants Warner Chilcott Company, LLC and Warner Chilcott (US), LLC (collectively		
25	"Warner Chilcott") and alleges the following:		
26	NATURE OF THE ACTION 1. This is an action for natural infinity and an elementary and an elementary action and action and action and action and action and action and action action and action action and action action and action		
27	1. This is an action for patent infringement arising under the patent laws of the United		
28	States, including 35 U.S.C. §§ 271, 281-285.		

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2. This lawsuit pertains to Warner Chilcott's infringement of U.S. Patent Number 43,916 (the "'916 Patent").

3. The '916 patent issued on January 8, 2013 and is a reissue of U.S. Patent Number 5,824,667. Inventors Jürgen Spona, Bernd Düsterberg, and Frank Ludicke filed their application for this patent on March 24, 2006. Bayer Pharma AG is the current owner of the '916 Patent. A true and correct copy of the '916 Patent is attached as Exhibit A.

PARTIES

- 4. Plaintiff Bayer Pharma AG is a corporation organized and existing under the laws of the Federal Republic of Germany, having a principal place of business in Müllerstrase 178, 13353 Berlin, Germany.
- 5. On information and belief, Defendant Warner Chilcott Company, LLC is a limited liability company organized and existing under the laws of Puerto Rico, having a principal place of business at Union Street, Road 195, Km1.1, Fajardo, PR 00738-1005. On information and belief, Warner Chilcott Company, LLC is in the business of, among other things, developing, manufacturing, marketing and selling branded prescription pharmaceutical products in women's healthcare and dermatology in the U.S.
- 6. On information and belief, Defendant Warner Chilcott (US), LLC is a limited liability company organized and existing under the laws of Delaware, having a principal place of business at 100 Enterprise Drive, Suite 280, Rockaway, NJ 07866. On information and belief, Warner Chilcott (US), LLC is in the business of, among other things, developing, manufacturing, marketing and selling branded prescription pharmaceutical products in women's healthcare and dermatology in the U.S.

JURISDICTION AND VENUE

- 7. This action arises under the Patent Laws of the United States, 35 U.S.C. § 101 et seq., including 35 U.S.C. § 271. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331, 1338(a).
- 8. This Court has personal jurisdiction over Warner Chilcott. Warner Chilcott (US), LLC maintains substantial, continuous, and systematic contacts in Nevada, including infringing

-2-3331910.1 9. Venue is proper in the District of Nevada pursuant to 28 U.S.C. §§ 1391, 1400(b)

FACTUAL BACKGROUND

10. Plaintiff Bayer Pharma AG is the assignee of the '916 Patent.

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- 11. Without limitation, the '916 Patent claims a method of inducing contraception in a female of reproductive age by administering a monophasic composition comprising 15 µg to 20 µg of ethinylestradiol and a contraceptively effective amount of a gestagen wherein the composition is administered for 23 or 24 days followed by 5 or 4 pill-free or non-hormonal pill days.
- 12. Defendant Warner Chilcott sells Loestrin 24 FE tablets in the United States as a 28-day oral contraceptive regimen. Loestrin 24 FE's regimen contains 24 tablets comprising a contraceptively effective amount of norethindrone acetate and 20 µg ethinyl estradiol; and 4 non-hormonal placebo tablets.

COUNT I - INFRINGEMENT OF UNITED STATES REISSUE PATENT NO. 43,916

- 13. Bayer restates and realleges each of the assertions set forth in Paragraphs 1 through 12.
- 14. The administration of the oral contraceptive Loestrin 24 FE infringes one or more claims of the '916 Patent under 35 U.S.C. § 271 either literally or under the doctrine of equivalents.

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1	15. Defendant Warner Chilcott has knowledge of the '916 Patent. By letter dated		
2	February 18, 2013, Bayer informed Warner Chilcott that that it induced infringement of the '916		
3	Patent through sales of Loestrin 24 FE. Warner Chilcott also has knowledge of the '916 Patent		
4	based on the filing of this lawsuit.		
5	16. On information and belief, Warner Chilcott has knowledge that its sales of Loestrin		
6	24 FE will result in the infringement of the '916 Patent. On information and belief, Warner		
7	Chilcott is aware or should be aware of the widespread prescription of Loestrin 24 FE by doctors		
8	or other healthcare practitioners. The label for Loestrin 24 FE instructs doctors or other healthcar		
9	practitioners as well as patients to administer Loestrin 24 FE with a regimen of 24 tablets		
10	containing 20 µg of estrogen and a contraceptively effective amount of a gestagen; followed by 4		
11	pill-free or sugar pill days.		
12	17. On information and belief, Warner Chilcott has the specific intent to encourage		
13	infringement by others of the '916 Patent based on its distribution of Loestrin 24 FE for purposes		
14	of its administration as an oral contraceptive.		
15	WHEREFORE, Bayer is entitled to recover from Warner Chilcott the damages sustained		
16	by Bayer as a result of Warner Chilcott's wrongful acts in an amount subject to proof at tria		
17	including an amount not less than a reasonable royalty together with interest and costs as fixed by		
18	this Court under 35 U.S.C. § 284.		
19	JURY DEMAND		
20	Bayer hereby demands a trial by jury on all issues so triable.		
21	Dated: this 19th day of February, 2013.		
22	Respectfully submitted,		
23	LEWIS AND ROCA LLP		
24	By:/s/ Jonathan W. Fountain		
25	Jonathan W. Fountain Nevada Bar No. 10351		
26	JFountain@LRLaw.com 3993 Howard Hughes Parkway		
27	Suite 600 Las Vegas, NV 89169		
28	Phone: (702) 949-8340		

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